

Josh Lewis/DC/USEPA/US

08/28/2009 08:07 AM

To David McIntosh

cc Diann Frantz, Patricia Haman, Cheryl Mackay

bcc

Subject no sign of the tailoring rule on the OMB website yet. Inside EPA article below on the vehicle and tailoring rule FYI

## EPA FORWARDS LANDMARK CLIMATE PLAN TO WHITE HOUSE FOR REVIEW (Inside EPA)

8/28/2009

EPA has sent for White House review its proposal to regulate vehicle greenhouse gas (GHG) emissions and is poised to imminently send over its separate first-time proposal to establish a threshold for requiring GHG limits in certain air permits, while facing tight deadlines for decisions on a slew of other climate-related policies.

The agency is expected to quickly finalize its finding that GHGs from vehicles endanger public health and welfare, a decision that will trigger a duty under section 202 of the Clean Air Act to finalize EPA's proposed rule to regulate GHGs from cars and light duty trucks. The agency Aug. 25 sent the vehicle GHG proposal to the White House Office of Management & Budget (OMB) for review prior to its publication in the Federal Register. The final vehicle rule, in turn, will trigger a separate air act duty to issue a rule setting limits on GHGs in air permits.

According to a recent presentation by former EPA General Counsel Roger Martella -- now a lawyer at Sidley Austin LLP -- EPA is likely to issue as early as this month the vehicle proposal following OMB review and a separate proposal on establishing a threshold for limiting GHGs in prevention of significant deterioration (PSD) permits. Relevant documents are available on [InsideEPA.com](http://InsideEPA.com).

While EPA rushes to propose and finalize its three key climate policies, the agency could at any time move on several pending petitions from states officials, environmentalists and others urging EPA to issue GHG rules for aircraft, marine vessels, nonroad vehicles and other sources.

Martella says EPA may also act on its "preferred path" of issuing a new source performance standard (NSPS) setting GHG standards for power plants. This is "likely [EPA's] highest priority" and would impose efficiency, technological and work practice standards to reduce GHGs from the sources, according to Martella's presentation. EPA is also weighing whether to develop a GHG NSPS for industrial boilers.

The presentation, prepared for an American Enterprise Institute public forum, says that the agency is likely by March 2010 to have finalized its endangerment determination, vehicle rules and PSD threshold. EPA Administrator Lisa Jackson in a recent memo on an air permit challenge acknowledged that once the GHG vehicle rules are issued then the air act requires the agency to issue a rule setting a threshold for when PSD permits must include GHG controls. PSD permits would be required for GHGs because GHG emissions would be defined as regulated under the air act but not criteria pollutants regulated under national ambient air quality standards. The permits would require best available control technology to reduce GHGs (Inside EPA, Aug. 21).

The Bush EPA in its 2008 advance notice of proposed rulemaking for GHGs said that because the agency has never before regulated GHGs under the air act, the statutory threshold for triggering PSD permit limits would be zero emissions -- a level that would capture every source of GHGs. Therefore, the air law allows EPA to raise the threshold to 250 tons per year (tpy), which is the level for conventional pollutants regulated in PSD permits, but a level that activists, industry and others say is far too low for carbon dioxide emissions, because they say it would capture a range of small sources that the air act was not designed to regulate.

EPA is expected to propose raising the threshold up to 25,000 tpy, which would be consistent with the agency's proposed first-time GHG reporting rule that would require any facility emitting more than 25,000 tpy of GHGs to report emissions to a national registry. EPA is aiming to enact the registry Jan. 1, 2010.

An EPA analysis conducted for the GHG registry proposal found that regulating GHG sources that emit below 25,000 tpy would affect tens of thousands of additional sources that collectively represent a tiny fraction of total U.S. GHGs, which could boost the agency's effort to avoid regulating small GHG emitters, according to environmentalists, state officials and others (Inside EPA, May 29).

EPA Administrator Lisa Jackson has repeatedly said that the agency has the discretion to raise the PSD threshold to capture only large sources. But any attempt to raise the threshold beyond the statutory 250 tpy level may spark a lawsuit claiming the move is illegal under the air act.

One industry source says EPA's proposal is likely to seek comment on an array of possible options under the NSR program, including raising the threshold up to 25,000 tpy, as well options for setting the threshold at 250 tpy and doing simplified general permits for smaller sources, such as large buildings, hospitals and schools that would be caught by lower thresholds.

In a related development, California officials are moving ahead with regulatory changes to their GHG emission limits for vehicles to conform with the landmark agreement with the auto industry that the federal government announced earlier this year on setting uniform fuel-economy standards and GHG limits for passenger vehicles.

The California Air Resources Board (CARB) earlier this month released its regulatory amendments as part of the state's commitment toward a nationwide program to reduce GHGs from new passenger vehicle from 2012 through 2016. CARB's amendments, scheduled to be approved Sept. 24, will provide vehicle manufacturers with more compliance flexibility than the original rule.

**Kristi Smith/DC/USEPA/US**

09/30/2009 01:55 PM

To Patricia Embrey

cc Brian Doster, Carol Holmes, Elliott Zenick, Kevin McLean,  
Richard Ossias

bcc

Subject Re: Fw: Signed 9/29/09: Prevention of Significant  
Deterioration (PSD): Reconsideration of Interpretation of  
Regulations that Determine Pollutants Covered by the  
Federal PSD Program (SAN 5377, Tier 1)

Tailoring rule info is up on the web. Reconsideration should be up shortly.

<http://www.epa.gov/nsr/actions.html>

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Patricia Embrey

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09/30/2009 01:21:07 PM

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Date: 09/30/2009 01:21 PM  
Subject: Fw: Signed 9/29/09: Prevention of Significant Deterioration (PSD): Reconsideration of  
Interpretation of Regulations that Determine Pollutants Covered by the Federal PSD Program (SAN  
5377, Tier 1)

----- Forwarded by Patricia Embrey/DC/USEPA/US on 09/30/2009 01:20 PM -----

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Date: 09/30/2009 01:19 PM

Subject: Signed 9/29/09: Prevention of Significant Deterioration (PSD): Reconsideration of Interpretation of Regulations that Determine Pollutants Covered by the Federal PSD Program (SAN 5377, Tier 1)

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FYI

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**Lisa**  
**Heinzerling/DC/USEPA/US**  
09/04/2009 08:25 AM

To "Lisa Jackson", "Seth Oster", "Gina McCarthy", "David  
McIntosh", "Allyn Brooks-LaSure", "Diane Thompson"  
cc  
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Subject David Doniger's take on tailoring rule

[http://switchboard.nrdc.org/blogs/ddoniger/wall\\_street\\_journal\\_outfoxed.html](http://switchboard.nrdc.org/blogs/ddoniger/wall_street_journal_outfoxed.html)

**Patricia Haman/DC/USEPA/US**

10/30/2009 05:39 PM

To Nancy Ketcham-Colwill, Joseph Goffman

cc David McIntosh, Josh Lewis

bcc

Subject Fw: EPA responses for the record

They're gone!

I wanted all of us to have the final version both in pdf (below) and word:



EPA responses to EPW questions following 102709 hearing 103009.docx

Patricia Haman  
Office of Congressional and Intergovernmental Relations  
202-564-2806

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Heather: Attached for the record are EPA's responses to the questions following Tuesday's (10/27/09) hearing. Pat



EPA responses to EPW questions following 102709 hearing 103009.pdf

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To "Majors, Heather (EPW)"

10/30/2009 05:36 PM

cc Bettina\_Poirier, Paul\_Ordal, David McIntosh, Josh Lewis  
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Subject EPA responses for the record

Heather: Attached for the record are EPA's responses to the questions following Tuesday's (10/27/09) hearing. Pat



EPA responses to EPW questions following 102709 hearing 103009.pdf

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Office of Congressional and Intergovernmental Relations  
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**Environment and Public Works Committee Hearing**  
**October 27, 2009**  
**Follow-Up Questions for Written Submission**

**Senator Tom Udall**

1. As currently drafted the legislation puts the point of regulation (POR) for natural gas liquids (NGLs) at the point of fractionation, and requires the owner of the NGLs to acquire an allowance for those products, even though a large percentage of these NGLs will not be combusted and therefore will be non-emissive because they will be used as building blocks for petrochemical and plastic products. The legislation contemplates that the owner of the NGLs will be compensated for the cost of those allowances when the NGLs are sold to the end use customer—most likely a petrochemical or refining facility. The owners of those facilities will, in turn, be able to obtain “compensatory” allowances for their non-emissive, feedstock use of those products. I have some questions about the efficiency of this arrangement and would greatly appreciate EPA’s technical advice on how to improve it.

- Since petrochemical facilities use the vast majority of their NGL’s as a feedstock in the manufacturing of plastics and refiners who use NGLs for blending with motor fuels are already covered facilities that must present allowances to EPA for their emissions under the bill, would it be simpler from a regulatory standpoint to put the responsibility for acquisition of the allowance on the small portion of NGL’s being actually used as a fuel?

**Administrator Jackson Response:**

EPA staff stands ready to provide your office with technical assistance in determining whether the approach you describe would be simpler and at least as effective.

- Under the proposed draft is there an opportunity for regulated entities to take advantage of incomplete pass-through of allowance costs in the transaction between the owner at fractionation and the ultimate consumer, thus creating an opportunity to create windfalls through the compensatory allowance structure? If so, what steps could be taken to prevent any windfalls?

**Administrator Jackson Response:**

EPA staff stands ready to provide your office with technical assistance in identifying whether any such risk exists and, if so, designing appropriate steps to eliminate it.

- Is EPA prepared to institute a regulatory program to ensure that all costs incurred by the owner at fractionation are fully recovered and windfalls are avoided and if so, how would such a regulatory program potentially work?



**Administrator Jackson Response:**

If legislation like S.1733 were enacted, EPA would, under the authorization contained in the statute, begin immediately to prepare to institute such a program in time to begin the emissions allowance allocation system and emissions cap established by the statute.

**Senator James M. Inhofe**

1. Administrator Jackson, Sen. Barrasso and I sent you letters on the endangerment finding in August and September, and heard no response. We finally got a stack of documents yesterday evening. It seems the only time I get responses from you is the night before you testify before the committee. I am very disappointed with this, especially since you said in your nomination hearing that you would treat requests from the minority the same as those from the majority. This has become a pattern and practice. Will this continue, or can you commit to me to respond to my requests in a timely and transparent fashion?

**Administrator Jackson Response:**

EPA has responded to your requests in a timely fashion in light of the scope of the requests, and we will continue to respond in a timely and transparent manner.

2. Administrator Jackson, Michigan and California have both tried to create green jobs and move to a so-called “green economy.” Yet, California has a 12.2 percent unemployment rate, the nation’s 4<sup>th</sup> highest; Michigan’s is 15.3 percent, the nation’s highest. These are far higher than the national rate of 9.8 percent. In light of your considerable experience with green jobs, can you explain what is happening in those states? How would putting a price on carbon help those states, when we know, according to CBO, that cap-and-trade results in a net loss of jobs?

**Administrator Jackson Response:**

The economic challenges facing our states are the result of a number of circumstances which vary to some extent by state. What is clear is that states and the nation as a whole cannot stay competitive if we don’t move to a 21<sup>st</sup> century economy powered by low-carbon energy while China and other major economies do. I applaud the efforts of California and Michigan to position their economies to take advantage of the move to clean energy and green jobs. Putting a price on carbon will help those states and others make further progress by providing a strong price signal for the development and deployment of clean energy that will provide the foundation for our country’s economy going forward.

3. EPA concedes on page 3 of its analysis that Kerry-Boxer’s mandates and standards restrict the way sources can meet the cap, which will increase the cost without delivering additional emissions reductions. Can you explain this for me?

**Administrator Jackson Response:**

As stated in EPA's analysis of S. 1733, a cap-and-trade policy "assures that the cap is met at the cheapest possible cost to covered sources while inducing long-term innovation and change in the production and consumption of energy-intensive goods in related markets." This section of the analysis also states that, "Standards that impose restrictions on the way in which a particular subset of sources meet the cap will reduce this flexibility and, if binding, likely increase the costs without delivering additional emission reductions." This statement was intended to contrast a cap-and-trade policy with generic command-and-control policies, and does not refer to specific provisions of H.R. 2454 or S. 1733.

4. Do you agree that the worker adjustment assistance provisions in Title 3, Part 2, sections 311 through 313 in Kerry-Boxer are needed because this bill will cost jobs?

**Administrator Jackson Response:**

No. I believe the bill will create good, clean energy jobs that cannot be moved overseas. As we build a workforce trained in the skills needed for a clean energy economy, we will not only be putting Americans to work, but we will be making changes that reduce energy costs. For example, homes across America can be weatherized and made more energy-efficient, creating jobs that can't be outsourced while saving families hundreds of dollars a year.

5. I understand that new legislation usually entails new programs. But Sen. Webb compared the bureaucracy in Lieberman-Warner to "the old Soviet Union." Lieberman-Warner was 344 pages. Kerry-Boxer is 923 pages. Waxman-Markey is 1,400 pages. How would you describe the bureaucracy and mandates in this bill? And if this a market-based approach, why is all of this necessary?

**Administrator Jackson Response:**

The cap and trade program in the Kerry-Boxer and Waxman-Markey bills would provide a streamlined, highly efficient mechanism for obtaining the deep reductions in greenhouse gases that are needed to address the threat of climate change. But we also know that the price signal the cap and trade program would establish may not be strong enough in the early years to spur the technological changes needed for the nation's transition to a clean energy economy. Market barriers can also lessen the impact of the price signal the cap and trade program would provide. The bills deploy a number of complementary measures to address these well-recognized issues.

6. I note that you mentioned the joint EPA/DOT regulation to set auto emission standards and fuel economy standards for motor vehicles. Both standards are for the 2012-2016 model years. As I understand it, DOT has to provide a certain amount of lead time to permit manufacturers to tool-up. EPA has the same problem, but only because it has proposed to issue a positive endangerment finding which would require the setting of motor vehicle emission standards to address GHG pollutants. Now I know that EPA's regulations will get some nitrous

oxide and methane emissions reductions, but the bulk of its reductions will be in carbon dioxide emissions. I believe that as far as CO<sub>2</sub> is concerned EPA and DOT will get roughly the same amount of emissions reductions. Therefore I have two questions: is there a court imposed deadline to get the EPA portions of this rule out? Did you weigh the cost-benefits of not making carbon dioxide a regulated pollutant, suffering the emission reductions not achieved, against the costs of putting many small sources in legal jeopardy of having to decide to get or not get construction permits for new construction and significant modifications?

**Administrator Jackson Response:**

EPA has issued its proposed light-duty vehicle standards as part of its efforts to expeditiously respond to the Supreme Court's now 2 ½ -year-old ruling that greenhouse gases are air pollutants under the Clean Air Act and that EPA must answer the endangerment question posed by a now 10-year-old rulemaking petition for vehicle greenhouse gas standards under section 202(a) of the Act. While there is not a court-ordered deadline for EPA to issue the proposed standards, I take very seriously the obligation to respond to the Supreme Court's decision. We note that the Supreme Court directly addressed the issue of whether DOT regulations are sufficient to absolve EPA of its mandate; specifically the court finding stated *"that DOT sets mileage standards in no way licenses EPA to shirk its environmental responsibilities. EPA has been charged with protecting the public's "health" and "welfare," 42 U. S. C. §7521(a)(1), a statutory obligation wholly independent of DOT's mandate to promote energy efficiency."*

It is also important to remember that if EPA were to further delay this proposal, there could be separate federal and state regimes independently regulating light-duty vehicles to reduce fuel consumption and GHG emissions: NHTSA's CAFE standards, and the GHG standards applicable in California and other states adopting the California standards. The joint EPA-NHTSA proposal would allow automakers to meet both the NHTSA and EPA requirements with a single national fleet. In addition, California's commitment to defer to the federal program is also conditioned on EPA adopting GHG standards of this type.

For several reasons, the estimates of benefits and costs presented by EPA and NHTSA, while consistent, are not directly comparable and should not be expected to be identical. EPA estimates that the proposed GHG standards will result in a reduction of 947 million metric tons of CO<sub>2</sub> from the 2012-2016 vehicles over their lifetime. DOT has estimated that the CAFE program alone will result in a reduction of 639 million metric tons of CO<sub>2</sub>. In response to your second question, EPA is addressing concerns over PSD permitting by a proposed rule on PSD permitting requirements, which is discussed further in the answer to question #30.

7. Many think the PSD tailoring rule is legally suspect and if the rule is overturned everyone that followed your regulation would be in legal jeopardy. You may leave them alone, but can EPA protect them from citizen suits? I know you have some legal theory about judges keeping an illegal rule effective until EPA makes corrections.

**Administrator Jackson Response:**

I believe the proposed PSD tailoring rule is legally sound. It would focus state permitting efforts on the largest sources of greenhouse gas emissions for at least five years and describes a process for evaluating future regulation of additional sources. In the case of a citizen suit, should the final rule remain as proposed, the court would have a solid basis for rejecting the challenge because of the rule's legal foundation, which is described at length in the preamble to the proposed rule. See, in particular, 74 Fed. 55292, 55303-55320 (October 27, 2009). EPA will, of course, carefully consider the comments it receives in response to the proposal.

- a. Why do you think that will work when I am told you have tried to get the Act to work first by proposing streamlined permitting for small sources?

**Administrator Jackson Response:**

I believe the proposed rule's legal foundation will provide a court with a solid basis for upholding it. As we develop the final rule, we will take into account the public comments we receive, and I am confident the rule will be stronger as a result. The proposed rule includes a discussion of EPA's intention to develop streamlining techniques for smaller sources to the extent feasible.

- b. Again, what is the rush? I have been told you are pressuring Congress to pass climate change legislation. Is that true? Or do you really think this path to chaos is prudent regulatory behavior?

**Administrator Jackson Response:**

The President and I have repeatedly asked Congress to pass comprehensive climate change legislation. As time passes, however, I am compelled to address pending legal obligations concerning greenhouse gases, and to address the task that the Supreme Court laid out for us. The need to address climate change is also urgent. The Agency has applied sound science, available technological information and common sense in developing its responses to those obligations to date.

8. Along with Sen. Voinovich, I asked for an analysis of H.R. 2454 with what I believed were realistic assumptions about the availability of international offsets, the ability to only construct a modest number of additional new nuclear plants above those that had to be replaced, and finally the lack of carbon capture and sequestration (CCS) availability. Our request was not granted. I have no analysis as to what many believe are realistic scenarios for the future. Doubly troubling is the fact that your S.1733 analysis is believed by your experts to be "close" to the H.R. 2454 analysis. During this committee's consideration of the Lieberman-Warner bill, I received a comprehensive technical analysis after the bill had passed out of committee. I have some questions regarding your analysis of S. 1733:

What scenario did EPA use for its base case for S.1733 (or herein after “Chair’s Mark”)?  
What sensitivity analyses did you perform on S.1733?

**Administrator Jackson Response:**

As stated in our analysis of S. 1733 “EPA synthesized the results of a significant volume of modeling analysis on economy-wide climate policy performed by the Agency. This effort drew from the nearly 50 modeling scenarios of five bills over the past two years, with particular focus on the two economic analyses of the Waxman-Markey bill this year.”

- a. Please describe how EPA synthesized the results of various modeling exercises?

**Administrator Jackson Response:**

EPA assessed how the differences between H.R. 2454 and S. 1733 would likely impact modeled costs. Many of the differences between the bills had previously been examined in sensitivity scenarios included in previous EPA analyses. EPA also presented some of the modeled costs from the core scenario (scenario 2) of EPA’s analysis of H.R. 2454 for comparison. EPA discussed additional sensitivity cases that were run for previous bills that would also be applicable for S. 1733.

- b. In modeling the market stability reserve, under which scenario or sensitivity run did the reserve run out of allowances, and what was the resultant allowance price?

**Administrator Jackson Response:**

EPA did not explicitly model the market stability reserve. The discussion of the reserve running out was simply based on the amount of allowances that were initially placed in the reserve and the amount of allowances that are allowed to be auctioned from the reserve in each year. This discussion did not require any modeling.

- c. Under S.1733, if the Administrator does not determine that sufficient CCS has been commercially deployed, NSPS is not triggered. Do you model the impact this may have on the development of new coal fired power plants? Without CCS, what control technology and at what cost in \$/kw do you project to be available?

**Administrator Jackson Response:**

EPA modeling shows that new *conventional* coal plants (without CCS) are not built in the presence of a carbon price, whether CCS is available or not. Thus, EPA has not specifically analyzed this provision. In the absence of CCS, there are many low-emitting power technologies that are available to meet emission reduction targets.

The cost assumptions for these technologies are taken from EIA's AEO 2009 (April update). For the coal-fired facilities, emission reduction options (excluding CCS) include biomass co-firing, plant efficiency improvements, or changes to utilization.

9. Your models are deficit neutral, but since S.1733 is unlikely to pass without being scored as deficit neutral, did you model the impacts of the Deficit Reduction Fund? What were the impacts on allowance prices as a result of the smaller number of allowances allocated to utilities?

**Administrator Jackson Response:**

As stated in our analysis of S. 1733, "EPA synthesized the results of a significant volume of modeling analysis on economy-wide climate policy performed by the Agency. This effort drew from the nearly 50 modeling scenarios of five bills over the past two years, with particular focus on the two economic analyses of the Waxman-Markey bill this year." EPA has not included a scenario that varies the deficit reduction fund in the analyses it has conducted of climate legislation for the House or in prior Congresses.

10. Table 5 of your discussion lists a number of small or slight increases as well as a slight decrease in the difference between S. 1733 and H.R. 2454. What are the sum of the increases, and the result of the sum of the decreases, minus the decrease?

**Administrator Jackson Response:**

We have not estimated a sum total of the differences between S. 1733 and H.R. 2454 but are confident that the economic impacts of S. 1733 are very similar to H.R. 2454.

11. In your discussion of emissions and resulting carbon dioxide concentration increases over time, what formula, equation or mathematical relationship between emissions, carbon dioxide concentration, and temperature did you use? What was the source of this relationship?

**Administrator Jackson Response:**

As stated in EPA's October 23 report, the agency evaluated the impact of policies like S. 1733, combined with actions by other governments, on global CO<sub>2</sub>-equivalent concentration levels and global average temperature rise. On pages 25-28 of EPA's October 23 report, we noted that we used the MiniCAM and MAGICC models to assess global emissions, concentrations, and temperature rise through 2100. We used a climate sensitivity of 3.0, which was deemed the "best estimate" by the IPCC Working Group I in their 2007 report.

12. At what point in time and under what scenario or sensitivity run did the strategic reserve run out of allowances? What were the consequences for allowance prices and impacts on consumers?

**Administrator Jackson Response:**

As stated in our analysis of S. 1733, “EPA synthesized the results of a significant volume of modeling analysis on economy-wide climate policy performed by the Agency. This effort drew from the nearly 50 modeling scenarios of five bills over the past two years, with particular focus on the two economic analyses of the Waxman-Markey bill this year.” EPA has not run a scenario or sensitivity run in any of its publically available modeling where the strategic reserve runs out of allowances.

13. Did you analyze the sensitivity of your model to the case where there were no international offsets available? If so, please provide your results.

**Administrator Jackson Response:**

We included a sensitivity of no international offsets in our H.R. 2454 modeling. See Scenario 7, slide 40 of the H.R. 2454 analysis for the results.

14. Did you analyze the sensitivity of your model where no new nuclear power plants were constructed? If so, please provide your results.

**Administrator Jackson Response:**

We included a sensitivity of no new nuclear generation growth beyond the reference case in our H.R. 2454 modeling. See Scenario 5, Slide 17 of the H.R. 2454 analysis for the results.

15. Did you analyze the sensitivity of your model where CCS does not become commercially available until 2030, or is never available? If so, please provide your results.

**Administrator Jackson Response:**

EPA has not included this scenario in the analyses it has conducted of climate legislation in the House or in prior Congresses. However, EPA’s analysis of S. 2191 included a scenario constraining nuclear, biomass, and CCS. The results of this scenario are available in our analysis of S. 2191.

16. Did you analyze the sensitivity of your model to the case where there are no new nuclear plants being constructed, CCS is not available, and there are no international offsets?

**Administrator Jackson Response:**

EPA has not included this scenario in the analyses it has conducted of climate legislation in the House or in prior Congresses. However, EPA's analysis of S. 2191 included a scenario constraining nuclear, biomass, and CCS; and a scenario that did not allow offsets; but did not include a scenario combining these constraints. The results of this scenario are available in our analysis of S. 2191.

17. Please provide the amount of renewable energy that each scenario and/or sensitivity run projected to be built. Please break this down by type.

**Administrator Jackson Response:**

As stated in our analysis of S. 1733, "EPA synthesized the results of a significant volume of modeling analysis on economy-wide climate policy performed by the Agency. This effort drew from the nearly 50 modeling scenarios of five bills over the past two years, with particular focus on the two economic analyses of the Waxman-Markey bill this year." In EPA's analysis of H.R. 2454, the share of renewable electricity in the reference scenario is 6% of generation in 2015, 8% in 2020, and 10% in 2030. In "scenario 2 – H.R. 2454" the renewable generation share increases to 8% in 2015, 12% in 2020, and 20% in 2030 (other policy scenarios have similar renewable shares).

18. Please provide your analysis of the impact of carbon dioxide pipeline construction on the amount of expected CCS use within the series of analyses you performed.

**Administrator Jackson Response:**

EPA's analysis does not estimate specific pipeline construction needed for climate legislation. EPA assumes a cost of \$15/ton of CO<sub>2</sub> to reflect the costs of building, transporting, and storing CO<sub>2</sub> underground.

19. In your discussion of energy efficiency provisions, you stated that S.1733 would have energy efficiency impacts of about half those calculated for H.R. 2454. Please provide your analytical methodology for this estimate and the actual amount of impact.

**Administrator Jackson Response:**

As discussed in our S. 1733 assessment, three areas of energy efficiency provisions were addressed within our analysis of H.R. 2454: building codes, energy efficiency-related allowance allocations, and the energy savings component of the Combined Efficiency and Renewable Electricity Standard (CERES). In our analysis of H.R. 2454 (p. 18 of 53), EPA indicated that the impact of these provisions on electricity demand was estimated to grow to 5% of reference case



demand by 2020 and increase to 5.6% of reference case demand in 2050. Each of the three areas contributed significantly to this total effect, roughly 1/3 over the entire period through 2050.

In S. 1733 there is no provision comparable to the CERES provision of H.R. 2454. Also, the allowance allocations for energy efficiency are lower in S. 1733 than H.R. 2454, ranging from approximately 11% lower through 2029 to approximately 25% lower in 2040 and later years. This has a proportional impact on our estimate for the effects of these provisions. In addition, the absence of an allowance mechanism for addressing non-compliance within the building codes provision lowers our estimate of the energy savings effects of this provision. In total we estimate the aggregate impact of the energy efficiency provisions in S. 1733 to be approximately half of the comparable provisions within H.R. 2454.

20. Table 4 on page 17 of your discussion contains very useful information about H.R. 2454. Please provide a similar table for S.1733 and the back-up material.

**Administrator Jackson Response:**

EPA developed the S.1733 analysis based on synthesizing the results of nearly 50 modeling scenarios of five bills over the past two years. As we noted in the October 23<sup>rd</sup> paper, because of the many similarities between H.R. 2454 and S. 1733 and the relatively small differences between the two bills, we expect that S. 1733 would have economic impacts very similar to H.R. 2454, as depicted in Table 4.

21. Does your schedule that is posted on EPA's website accurately reflect your public meetings and administration meetings?

**Administrator Jackson Response:**

My office endeavors to keep the schedule posted on EPA's website accurate and up-to-date.

22. S. 1733 and H.R. 2454 will require the EPA to promulgate quite a few new rules and regulations before the contemplated trading scheme can start in 2012. However, the existing trading program for pollutants that are actually harmful to public health, Clean Air Interstate Rule (CAIR), was vacated by the DC Circuit Court of appeals on July 11, 2009 – almost 16 months ago – and still the EPA has failed to issue even a proposed replacement rule. Given the agency's historical record regarding the time required to promulgate new rules, is it even feasible for the agency to promulgate all the necessary regulations for a new cap and trade scheme before the 2012 start date?

**Administrator Jackson Response:**

The more appropriate comparison for developing and implementing regulations directed by legislation is EPA's experience with Clean Air Act Title IV, which established the Acid Rain

Program. Congress passed the Clean Air Act amendments that added Title IV in November 1990; Title IV required EPA to establish a program to reduce the adverse effects of acidic deposition in part through cap-and-trade. To implement that statutory mandate, EPA codified the Acid Rain Program requirements in seven regulations. In this case, EPA has already made substantial progress in establishing a system to collect and verify greenhouse gas emissions through promulgation of the Greenhouse Gas Mandatory Reporting Rule.

23. The EPA has a record of problems in administering the annual Sulfur Dioxide allowance auctions. Just last year, the agency initially reported erroneous results regarding the winning bidders of the annual Sulfur Dioxide allowance auction. Currently, it is contemplated that the EPA would have authority over both the supply (via allocation, strategic reserve, determination of new emissions subject to regulation) and demand (through regulations around measurement and account true up) aspects of the trading scheme. From both an internal control perspective, and in an effort to better utilize the relative comparative capabilities of the various agencies of the federal government, would it not make more sense to have the Treasury Department administer the supply aspects of the scheme (including the auction and strategic reserve fund management) and leave the demand aspects (measurement, true up, etc) to the EPA?

**Administrator Jackson Response:**

EPA has a strong record of efficiently administering the Acid Rain program. In addition to allocating allowances to each generating unit, EPA has conducted small annual, revenue-neutral allowance auctions since 1993. Auctioned allowances are acquired by the EPA holding back approximately 2.8% of the allowances issued to each unit. Each unit in turn receives a pro rata share of the auction proceeds. The Chicago Board of Trade (CBOT) ran the auctions for the first 13 years and then decided not to run them any longer. EPA has successfully run the auctions since then .

During the 2009 auction EPA inadvertently posted the incorrect 7-Year Advance Auction results at 12:00 noon on March 24, 2009. The incorrect results were corrected as soon as possible on the same day and resulted from a typographical error on our part in entering data from a bid form submitted for the auction. EPA is improving the auction format and will use electronic bidding in the future, which should preclude data entry errors. EPA has not been using electronic bidding in auctions of Acid Rain Program allowances because the number of allowances auctioned and number of bids received (never exceeding about 200 bids) have been relatively small and manageable, using a manual system.

Ultimately, it is up to Congress to determine who should administer the auction under any future energy and climate legislation.

24. Both H.R. 2454 and S. 1733 do not give allowances “Property Rights” legal status, which would afford holders the same constitutional protections against a taking as all other property. The concept of not giving allowances property rights legal status is the same concept used under the existing Title IV allowance trading program implemented as part of the Amendments to the Clean Air Act of 1990. However, under that program, most allowances (approximately 98%) are

allocated at no cost to sources. Under the currently contemplated trading scheme, no cost allocation is quickly phased out over time and in the not too distant future sources will need to purchase allowances. Why are allowances not given property rights legal status? Isn't the program's success contingent on market participants' confidence in the government's continued commitment to the program? Does the lack of property rights impair the value of the allowance and/or provide sources with a disincentive to use allowances as part of their long term compliance plan?

**Administrator Jackson Response:**

Title IV of the existing Clean Air Act, like H.R. 2454 and S. 1733, specifies that allowances are not property rights. This provision was inserted to ensure that EPA can require additional, appropriate emission reductions without those actions being deemed "takings" as a matter of constitutional law.

25. Section 163 would require the EPA Administrator, or other agency head or heads designated by the President, to promulgate regulations establishing building code energy efficiency targets by January 1, 2014. Does the EPA have the resources and technical knowledge of residential and commercial energy codes necessary to meet this target date? Is the EPA prepared to take on the responsibility of establishing national energy efficiency building codes? Under current law, the DOE is charged with making determinations on national model energy codes and participates in the development of those codes. How does the EPA view the requirements of Section 163 interacting with the DOE's current responsibilities in the development of national model energy codes?

**Administrator Jackson Response:**

Section 163 of S. 1733 is similar to Waxman-Markey Title II, Subtitle A, Section 163, which directs EPA to establish building code energy efficiency targets for the national average percentage improvement of buildings' energy performance. A key difference between the S. 1733 and Waxman-Markey provisions is that the S. 1733 provisions direct EPA or such other agency head or heads as the President designates, to develop building code energy efficiency targets in consultation with NIST. In contrast, the Waxman-Markey provisions direct DOE to establish building energy codes.

EPA will take on the responsibilities it is assigned in any enacted statute. Both EPA and DOE have experience and expertise in advancing energy efficiency measures for buildings and promoting the adoption of building codes (currently building codes are established in a voluntary consensus-based process). I am confident that EPA and DOE would work together to implement effectively any responsibilities assigned to the respective agencies by statute. Both agencies also would consult with NIST, which works closely with standards code organizations to develop roadmaps and the standards that industry accepts through the voluntary consensus process.

26. Administrator Jackson, at the hearing today, you outlined three principles with regard to preemption of the federal Clean Air Act (CAA), suggesting that not all of the provisions of the Act should be preempted if comprehensive climate change legislation is enacted. Please provide a comprehensive list of those provisions of the CAA that you believe should be preempted in legislation such as S. 1733 and HR 2454 and those provisions that you believe should not be preempted.

**Administrator Jackson Response:**

I currently do not have a comprehensive list in mind. EPA has begun to take action under CAA Title II to set vehicle greenhouse gas standards, and both H.R. 2454 and S. 1733 call for EPA to set standards under existing Title II authorities for other types of transportation sources. It will be important to consider each Clean Air Act tool in turn in deciding whether and how these tools can make a useful and efficient contribution to greenhouse gas reductions in the context of climate change programs being crafted by Congress. Having said this, the President has made clear that the problem of climate change is best addressed through comprehensive energy and climate legislation, and he strongly supports passage of such a bill. I look forward to working with the Committee on these issues.

27. Do you support full preemption of other federal statutes, such as the Clean Water Act and the Endangered Species Act with regard to the potential regulation of GHG emissions due to the potential impacts on species and water quality from changes in climate, ocean acidification and coral bleaching?

**Administrator Jackson Response:**

I currently do not have a position on that issue. I understand the importance of considering the ongoing role of these statutes as Congress considers comprehensive climate change legislation, and would welcome discussing the issue with the Committee.

28. HR 2454 proposes to preempt several provisions of the CAA, including part C of title I, section 112, section 108, section 115, and Title V. On balance, these provision should reduce the cost of HR 2454 compared to S 1733. Please provide an estimate of the regulatory costs of proceeding with these CAA programs if no legislation is enacted. Please explain how the inclusion of provisions preempting these sections of the CAA would affect the overall cost of the legislation.

**Administrator Jackson Response:**

The regulatory cost of proceeding under the Clean Air Act authorities you reference would depend, among other things, on the particular provisions of any specific rules EPA issued pursuant to those authorities. EPA has proposed a rule under part C of title I and Title V to focus the permit programs those provisions establish on the largest sources of greenhouse gases. We

provided an economic analysis of the proposed rule in the draft regulatory impact statement accompanying the proposal. Since there are no EPA proposals under the other authorities you cite, we have not developed information concerning the possible regulatory costs of such programs.

29. Both HR 2454 or S 1733 propose to require oil refiners to purchase allowances for all GHG emitted at the refinery during production as well as all GHG emitted from combusting the fuel in vehicles. This will raise the cost of gasoline and diesel fuel. Neither HR 2454 nor S 1766 proposes to preempt preemption section 211(c) of the CAA that provides EPA with authority to regulate fuels. Please tell the Committee why the price signal created from the increased cost of fuel and the inclusion of GHG emissions from the combustion and process of fuel under the economy wide cap is not sufficient in of itself to force changes in the production and consumption of fuel in the most cost-effective manner possible.

**Administrator Jackson Response:**

EPA's recent analysis has shown that refiners' obligation under the cap would raise gasoline prices \$0.25 in 2030 and \$0.69 in 2050 (in real 2005 dollars) -- increases smaller than the fluctuations in gasoline prices seen in recent years. This small, indirect price signal on transportation fuel from the cap alone may not achieve a large-scale transformation in the transportation system. Complementary policies, such as the proposed GHG rule for passenger vehicles, give greater impetus to ensure ongoing development of technological innovations for new vehicles, lower carbon fuels, improvements to the existing fleet, and VMT reductions. The benefits of such an approach go beyond climate change mitigation and offer energy security benefits as well

30. On September 15, 2009 EPA signed a proposal to reduce GHG emissions from motor vehicles under section 202 of the CAA. On October 27, 2009, EPA proposed a "Tailoring Rule" in an attempt to limit the impact of the final mobile source rule (based on EPA's interpretation) on triggering stationary source requirements for 40,000 sources under the PSD preconstruction permit program and 6 million sources under the title V permit program. In the proposed 202 rule, EPA omitted any full discussion of the potential stationary source regulations that will occur when the rule is finalized. Similarly, in the proposed Tailoring Rule, EPA notes that the rule "does not impose economic burdens" and should be viewed "as regulatory relief for smaller GHG emission sources when the light-duty vehicle rule is promulgated."

- a. Given EPA's view that the final section 202 motor vehicle rule will impose significant if not unworkable economic burdens on millions of stationary sources, why did EPA fail to present a full accounting of these stationary source impacts in the proposed light-duty motor vehicle rule when the Agency believes that the rule will automatically trigger these requirements?

**Administrator Jackson Response:**

In the notice of the proposed vehicle rule, EPA included all of the analysis that the Clean Air Act and Executive Orders direct EPA to include in such a proposal. EPA will carefully review all of the public comments it receives in response to the proposal.

- b. Why did EPA fail to conduct a regulatory flexibility analysis as required under the Regulatory Flexibility Act knowing that a final rule would affect millions of smaller sources?

**Administrator Jackson Response:**

EPA addressed the requirements of the Regulatory Flexibility Act (RFA) with respect to the proposed section 202 rule in the preamble of the proposal. For the reasons stated there, the Agency concluded that no additional RFA analysis was needed.

In the 202 proposal, EPA also acknowledged that small entities might have concerns about the potential impacts of the statutory imposition of Prevention of Significant Deterioration (PSD) permit requirements that might occur given EPA's various GHG rulemaking efforts. As the potential burdens of such stationary source regulation are being addressed in the tailoring rule proposal, EPA explained that it was "using the discretion afforded to it under section 609(c) of the RFA to consult with OMB and SBA, with input from outreach to small entities, regarding the potential impacts of PSD regulatory requirements that might occur as EPA considers regulations of GHGs" as part of the tailoring rule package. EPA will continue to assess any potential PSD impacts on small entities as we consider comments from the various rulemaking packages and conduct our outreach.

- c. Similarly, why did EPA fail to include the impacts on stationary sources when it submitted its benefit cost analysis required under Executive Order 12866?

**Administrator Jackson Response:**

EPA has taken the steps that Executive Order 12866 requires EPA to have taken by this point. For the proposed tailoring rule, EPA completed a regulatory impact analysis (RIA) that estimates the cost savings to sources and permitting authorities that would be achieved by the rule. The public has the opportunity to comment on this analysis along with the proposed rule itself, and we will carefully consider the comments we receive.

- d. How can sources meaningfully participate and comment on impending regulatory requirements without the inclusion of a full analysis of the likely burdens and the underlying statutory and regulatory authorities triggering those requirements?

**Administrator Jackson Response:**

As noted above, the public has an opportunity to review and comment on the RIA that we prepared for the proposed tailoring rule. More generally, EPA has and will continue to provide potentially affected sources with an opportunity to comment on any rulemaking that EPA proposes, including outreach to small entities coordinated in consultation with SBA.

- e. Given this gap and the likelihood that millions of sources will be impacted without ever having been afforded an opportunity to comment on a full analysis of the burden in the context of the rulemaking imposes this burden, shouldn't EPA withdraw the 202 proposal and reissue it with a full analysis of expected impacts as required by law.

**Administrator Jackson Response:**

I do not believe that EPA should withdraw the proposed section 202 proposal. The proposed tailoring rule addresses how sources might be impacted and provides the public with an opportunity to comment on focusing the application of the Clean Air Act permitting programs with respect to greenhouse gases on the largest sources of those pollutants. EPA will review and carefully consider any public comments filed on the proposals.

31. What portion of the proposed GHG emission reductions from the combined DOT and EPA rules would the EPA proposed section 202 produce compared to the reductions anticipated under the DOT rule?

**Administrator Jackson Response:**

For several reasons, the estimates of benefits and costs presented by EPA and NHTSA, while consistent, are not directly comparable and should not be expected to be identical. However, the CAA standards provide significant additional CO<sub>2</sub> benefits. EPA estimates that the proposed GHG standards will result in a reduction of 947 million metric tons of CO<sub>2</sub> from the 2012-2016 vehicles over their lifetime. DOT has estimated that the CAFE program alone will result in a reduction of 639 million metric tons of CO<sub>2</sub>.

- a. Could EPA realize some of the expected GHG emission reductions from HFC control through Title VI authorities rather than section 202?

**Administrator Jackson Response:**

EPA views this proposed rule as complementing the Title VI programs, and not conflicting or overlapping with them. To the extent that manufacturers choose to

reduce refrigerant leakage in order to earn air conditioning leakage credits, this would dovetail with the Title VI section 609 standards which apply to the servicing of motor vehicle air conditioning systems (MVACs), and to end-of-vehicle life disposal. In fact, a benefit of the GHG rule's proposed A/C credit provisions is that there should be fewer and less impactful maintenance events for MVACs, since there will be less leakage. EPA also believes the menu of leak control technologies proposed in the GHG vehicle rule would complement the section 612 requirements (pertaining to EPA's review of substitutes for ozone depleting substances that reduce the overall risks to human health and the environment), because these control technologies would help ensure that R134a or other refrigerants would be used in a manner that further minimizes potential adverse effects on human health and the environment.

b. Isn't true that EPA is not under a court deadline to issue the 202 rule and has the discretion to hold back the section 202 rule and let the DOT rule go forward alone?

**Administrator Jackson Response:**

Proposal of the section 202 rule is part of EPA's effort to expeditiously respond to the Supreme Court's 2007 decision in *Massachusetts v. EPA*. We note that the Supreme Court directly addressed the issue of whether DOT regulations are sufficient to absolve EPA of its mandate; specifically the court finding stated "*that DOT sets mileage standards in no way licenses EPA to shirk its environmental responsibilities. EPA has been charged with protecting the public's "health" and "welfare," 42 U. S. C. §7521(a)(1), a statutory obligation wholly independent of DOT's mandate to promote energy efficiency.*" While EPA is not under a court deadline to issue the GHG vehicle proposal, the goals of the National Program rely on a joint EPA/NHTSA program. This joint proposal offers the prospect of important regulatory convergence and certainty to automobile companies. If EPA were to further delay its proposal, there could be separate federal and state regimes independently regulating light-duty vehicles to reduce fuel consumption and GHG emissions: NHTSA's CAFE standards, and the GHG standards applicable in California and other states adopting the California standards. This joint proposal would allow automakers to meet both the NHTSA and EPA requirements with a single national fleet, greatly simplifying the industry's technology, investment and compliance strategies. Many of the world's largest auto companies have stated their support for this joint proposal. In addition, California's commitment to defer to the federal program is also conditioned on EPA adopting GHG standards of this type.

c. Wouldn't at least a temporary delay in issuing the section 202 rule make sense given the state of the economy and the significant and immediate impact it is likely to have on stationary sources, job creation, and the economy? Wouldn't additional time make sense given the time needed for Congress to carefully deliberate on comprehensive GHG legislation?



**Administrator Jackson Response:**

Our response to your concerns about stationary source regulation is provided in answer to question 30 above. The benefits of the proposed section 202 rule are substantial. The proposed National Program would result in approximately 950 million metric tons of total carbon dioxide equivalent emissions reductions and approximately 1.8 billion barrels of oil savings over the lifetime of vehicles sold in model years 2012 through 2016. In total, the combined EPA and NHTSA 2012-2016 standards would reduce GHG emissions from the U.S. light-duty fleet by approximately 21 percent by 2030. The estimated benefits of the proposed National Program would total about \$250 billion (at a 3% discount rate). In addition, the joint GHG/CAFE proposal has significant economic benefits for American consumers. Consumers would save more than \$3,000 as a result of fuel savings over the lifetime of a model year 2016 vehicle. Finally, EPA believes that the proposed GHG vehicle standards would complement comprehensive climate legislation.

32. Many companies producing products have had to shut down facilities and production lines given the economic recession and the reduced demand. If at some later point, the economy recovers and these sources decide to restart production two years after stopping, would they trigger PSD if GHG emission levels increase above the proposed significance levels? If so, would these sources then have to wait 18 months if not longer to receive a permit and install BACT before beginning operation?

**Administrator Jackson Response:**

EPA has policies in place to handle these sorts of situations. These evaluations are done based on the individual circumstances of each case.

33. In issuing the proposed Tailoring Rule, EPA relies on the legal argument of administrative necessity in circumventing the statutory thresholds of 100 and 250 tons depending on source category.

- a. What other agencies inside the Administration reviewed this legal theory? Please provide copies of their comments.

**Administrator Jackson Response:**

EPA has not proposed to circumvent any statutory requirements. As I stated earlier, I believe the proposed rule is legally sound. The proposed rule was subject to the interagency review process, so numerous agencies had an opportunity to review the rule, including its legal basis. As required by the Clean Air Act, EPA has included in the public docket for the proposed rule the comments submitted by other agencies during the interagency review process. The link to the electronic docket is

<http://www.regulations.gov/search/Regs/home.html#home>. When the page opens, please enter in the 'Enter Key Word' box docket # EPA-HQ-OAR-2009-0517.

- b. Based on prior NSR rulemakings and legal precedents, if the Tailoring Rule is vacated, would the 100/250 ton statutory thresholds be retroactively applicable? Would a significance level of zero emission increase be retroactively applicable for modifications as well if the Tailoring Rule is vacated? Does this mean that any modification at facilities with a potential to emit of 100 or 250 tons would trigger PSD and BACT if it causes a net increase in GHG emissions?

**Administrator Jackson Response:**

While there is caselaw that suggests vacatur can apply retroactively, a court may decide not to vacate a rule, and instead to remand it, in light of the potential impacts. In that case, the rule would remain on the books until revised. Moreover, in certain circumstances, even when vacating a rule, the court may retain the ability to fashion equitable relief, so that the vacatur would not apply retroactively. EPA believes that a reviewing court would find the tailoring rule, if adopted, legally sufficient, and that if the court held to the contrary, it would not find those numerical thresholds retroactively applicable in that situation.

34. Earlier this month, the press reported that Judge David Tatel of the U.S. Circuit Court of Appeals for the District of Columbia warned agencies that fail to follow federal statutes. He is quoted in the press as saying: "It looks for all the world like agencies choose their policy first and then later seek to defend its legality.....This gets it entirely backwards.....It's backwards because whether or not agencies value neutral principles of administrative law, courts do, and they will strike down agency action that violates those principles -- whatever the president's party, however popular the administration, and no matter how advisable the initiative." Do the Judge's comments and the sentiments expressed in those comments have any bearing on EPA's proposed legal argument with regard to the proposed Tailoring Rule?

**Administrator Jackson Response:**

The D.C. Circuit's decisions on EPA interpretation of the Clean Air Act obviously have a bearing on EPA's interpretation of the Clean Air Act regarding any rule that EPA issues under that statute. Presumably, Judge Tatel's remarks reflect cases in which he served on the judicial panel reviewing final EPA actions under the Clean Air Act. I am not aware that Judge Tatel has yet served on a judicial panel that has issued a decision on a final agency action that EPA has taken under the Clean Air Act during the current Administration.

- a. If, as some suggest, reliance on the doctrine of Administrative Necessity is legally precarious given the emission threshold that are written in the statute, isn't EPA needlessly placing millions of small businesses at economic risk (for costly controls

and permit delays) by issuing a final section 202 rule when it has the discretion to wait?

**Administrator Jackson Response:**

I believe the proposed tailoring rule is legally sound. As explained in the preamble to the proposed rule, its legal foundation relies on two lines of cases, the absurd results cases and the administrative necessity cases. Both lines of cases include precedents by the D.C. Circuit. *See 74 Fed. Reg.* at 55,306 (absurd results caselaw), at 55,316 (administrative necessity caselaw). As a result, we do not believe that we are placing small businesses at risk.

35. Concerning your June 2009 analysis of the Waxman-Markey Bill, please answer the following:

a. Why does your data annex file (“HR.2454 EPA Data Annex – ADAGE & IGEM v.2.3.xls”) not include figures from all 7 scenarios?

**Administrator Jackson Response:**

The data annex file “HR.2454 EPA Data Annex - ADAGE & IGEM v.2.3.xls” does include data from all 7 scenarios. It should be noted that the two models, ADAGE and IGEM, were not each run for each of the 7 scenarios. Data is provided from the ADAGE model for scenarios 1, 2, 3, 4, 5 and 6. Data is provided from the IGEM model for scenarios 1, 2, and 7.

b. Please provide figures for 1) electricity price, 2) gasoline price and 3) natural gas price under the reference and policy case scenarios (including scenario #7) for the years in the range of the program.

**Administrator Jackson Response:**

The data annex file “HR.2454 EPA Data Annex - ADAGE & IGEM v.2.3.xls” all relevant energy price information from the ADAGE model for scenarios 1 – 6. Scenario 7 was only run in the IGEM model, which does not produce this specific energy price information.

c. Please elaborate on why you include the net present value calculation for consumption losses (p. 13).

**Administrator Jackson Response:**

The net present value calculation for consumption losses is one of several different ways we present consumption loss impacts. The net present value consumption loss calculation is comparable to the net present value consumption loss calculation presented in MIT's analyses of climate policy.

- d. Please respond with consumption losses for all scenarios, including scenario 7, in net present value and straight consumption loss per Household.

**Administrator Jackson Response:**

This information is presented on slide 62 of the appendix to EPA's analysis of H.R. 2454.

- e. Your report says the "average annual NPV cost per Household" is \$80-\$111. (p. 13) Does this figure represent how much money would need to be put aside today to meet an average year's obligation? If so, is it fair to say a household would have to put aside \$80 to \$111 for each year of the program today in order to make up for consumption losses over the duration of the program?

**Administrator Jackson Response:**

The net present value of the consumption loss in a future period calculates the consumption loss today that would be equivalent to the consumption loss estimated for a future period. For example, as shown in table 4 of EPA's analysis of S. 1733, in 2020 H.R. 2454 would result in a consumption loss of \$0.23 - \$0.29 per day. The net present value of this loss in 2020 would be \$0.13 - \$0.16 per day. This means that a household would be indifferent between a consumption loss of \$0.29 that happens in 2020 and a consumption loss of \$0.16 that happens today.

- f. Can you create a new "Consumption" slide that includes all scenarios, including scenario 7? (See p. 13 of your Waxman-Markey analysis.)

**Administrator Jackson Response:**

This information is presented on slide 62 of the appendix to EPA's analysis of H.R. 2454.

**Senator George V. Voinovich**

- 1. I have been working with you and your agency, to ensure that your analyses of these climate bills includes cases that provide a look at possible costs associated with this bill -

particularly if assumptions about technology adoption aren't as rosy and optimistic as some would hope. Given that the EPA has not yet performed this analysis, how is it possible to believe that "a postage stamp a day" is the true cost of implementing this legislation?

**Administrator Jackson Response:**

EPA stands behind the methodologies and assumptions that the agency uses in order to model the economic impacts of energy and climate policies. EPA has always been and will remain transparent about the methodologies and assumptions that the agency uses. In particular, we examined the core features of both the House and Senate bills and found that the per-household costs were likely to be similar (about 30 cents a day) because of the close similarities in the core features of the bills. In addition, we examined alternative scenarios in our analyses that vary assumptions about technology adoption and acknowledge that the consumption impacts would be different (e.g., if there was no nuclear generation growth or no international offsets).

2. The EPA's base analysis of the Waxman-Markey Climate Bill assumes a 150% increase in nuclear generating capacity by 2050. That's equivalent to bringing online about 150 new nuclear plants in the next 40 years. For someone who has been saying that "we can't get there from here without nuclear", I couldn't be happier to hear that. However, I have a problem with that assumption. Given the current constraints in capital financing, licensing, manufacturing, and skilled work force for engineering and construction, I believe bringing 150 new nuclear plants online in the next 40 years is simply unrealistic. Additionally, your analysis shows 25 Gigawatts of CCS online by 2020, and a tenfold increase in biomass generation by 2050. So, could you please discuss the level of optimism you have in terms of actually seeing this level of adoption for these technologies? Have you had these assumptions peer-reviewed by other knowledgeable people at other government agencies or private industries? Aren't there a host of environmental problems that would only be aggravated by a tenfold increase in biomass generation?

**Administrator Jackson Response:**

EPA's analysis of H.R. 2454 does not assume a 150-percent increase in nuclear generating capacity by 2050. Rather, EPA's analysis of H.R. 2454 projects a 150-percent increase in nuclear generating capacity by 2050, in response to the policies in H.R. 2454. In the longer term, we believe that nuclear power will be a cost-competitive source of emissions-free electricity under a cap and trade system. The 150-percent increase in nuclear generating capacity by 2050 is a restriction on the amount of new nuclear capacity that the model is allowed to build. These restrictions are designed to reflect the technical and political feasibility of building new nuclear power plants.

The assumed limitations on new nuclear capacity reflect the U.S. Climate Change Science Program Synthesis and Assessment Product 2.1a (MiniCAM Level 1 Scenario), and the EPRI analysis "The Power to Reduce CO<sub>2</sub> Emissions: The Full Portfolio" (August 2007). When it comes to the nuclear industry, EPA uses the assumptions about the costs of nuclear power used by the Energy Information Administration. All of the assumptions that EPA uses have been through repeated rounds of inter-agency review. The non-governmental peer review that EPA's

methodologies and assumptions have been through is described in slides 16 – 18 of the appendix to EPA’s analysis of H.R. 2454.

EPA recognizes that the actual degree of future expansion of any of the electricity-generating technologies in question depends not just on the economic incentives created by a policy such as H.R. 2454 or S. 1733, but also on the presence or absence of constraints and incentives beyond the policy itself (administrative, political, etc.) that EPA’s computer models are not designed to detect. For that reason, EPA’s computer-modeling efforts include running the policy in question through the models under assumptions that the technologies in question do not deploy as much as would otherwise occur, irrespective of the economic incentives created by the policy under analysis. In that regard, my staff has made an offer to yours regarding additional scenarios with additional pessimistic assumptions that EPA could include in any future computer-modeling analysis of policies such as H.R. 2454 and S. 1733.

### **Senator David Vitter**

1. Administrator Jackson, I want to thank you for your candor in answering my letter of July 15. As you said in your response EPA has no analysis of the plausible emissions scenarios for the G-5 developing countries and Russia. Neither do you have the global CO2 equivalent concentration scenarios necessary to evaluate the impact of S 1733.

Based on your comments I have approached Dr. Leon Clarke with the Joint Global Change Research Institute to see whether he had any data available from his studies. He seems to have the same problem responding that the Department of Energy has.

My request is that you provide detailed modeling of the plausible scenarios of emissions based on the cases I outlined in my letter of July 15 so that we have this information before we mark up this bill. This analysis should conform to the July 2013 requirements stipulated in Section 705. *Can you ensure this modeling is prepared and submitted to Congress in a timely manner?*

**“SEC. 705. REVIEW AND PROGRAM RECOMMENDATIONS.** “(a) IN GENERAL.—The Administrator shall, in consultation with appropriate Federal agencies, submit to Congress a report not later than July 1, 2013, and every 4 years thereafter, that includes—

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“(2) whether United States actions, taking into account international actions, commitments, and trends, and considering the range of plausible emissions scenarios, are sufficient to avoid— “(A) atmospheric greenhouse gas concentrations above 450 parts per million carbon dioxide equivalent; “(B) global average surface temperature 3.6 degrees Fahrenheit (2 degrees Celsius) above the pre-industrial average, or such other temperature thresholds as the Administrator deems appropriate; and “(C) other temperature or greenhouse gas thresholds identified pursuant to subsection (c)(6)(B).

**Administrator Jackson Response:**

As stated in EPA's October 23 report, the agency does have a basis for evaluating the impact of policies like S. 1733, combined with actions by other governments, on global CO<sub>2</sub>-equivalent concentration levels and global average temperature rise. Please see pages 25-28 of EPA's October 23 report.

2. I assume that you have read the bill. Section 707 suggests that by July 1, 2015 the President will direct all agencies to take additional actions to reduce emissions.

***What additional actions could EPA take to further reduce emissions and under what authority?***

**Administrator Jackson Response:**

It is premature to describe exactly what additional actions EPA may take until such an analysis is conducted. However, we note that EPA has had successes achieving emissions reductions through voluntary programs that could be applied to uncapped sources.

***Wouldn't EPA have the authority to void any of the emissions credits under this provision?***

Page 422

**“SEC. 707. PRESIDENTIAL RESPONSE AND RECOMMENDATIONS.**

“Not later than July 1, 2015, and every 4 years thereafter— “(1) the President shall direct relevant Federal agencies to use existing statutory authority to take appropriate actions identified in the reports submitted under sections 705 and 706 and to address any shortfalls identified in such reports;

**Administrator Jackson Response:**

No, that is not our interpretation. Section 707 refers only to use of existing authorities. Nothing in the language of section 707 establishes authority to void emission credits.

3. Section 744 indicates that EPA will allow international offsets only from countries that comply with certain guidelines. If a country has not taken on legally binding and verifiable commitments, then it appears that the offsets will be disallowed. If China and India have not entered into such agreements, I assume that any offsets from those countries would not be available. ***What assumptions did EPA make about offsets from specific countries in its analysis of S 1733/HR 2454?***

Sec 744 International Offset Credits. Page 564 (2) REQUIREMENTS FOR INTERNATIONAL OFFSET CREDITS.—The Administrator may issue international offset credits **only if**— “(A) the United States is a party to a bilateral or multilateral agreement or arrangement that includes the country in which the project or measure achieving the relevant greenhouse gas emission reduction or avoidance, or greenhouse gas sequestration, has occurred; “(B) such country is a developing country;

### **Administrator Jackson Response:**

Pages 8 and 9 of EPA's S. 1733 analysis describe the construction of the international offset marginal abatement cost curves used in EPA's analysis of H.R. 2454. These assumptions are further detailed in the EPA's March 26, 2007 memo to EIA, "EPA S.280 mitigation cost schedules for capped sectors and domestic and international offsets," which is available as part of the data annexes of all of EPA's analyses of legislative climate proposals. EPA made differing assumptions about which sources are eligible to provide abatement to the international market depending on whether or not it was from a country with a binding cap on emissions. EPA did not make any assumptions about specific bilateral or multilateral agreements. Pages 20 – 21 of EPA's analysis of S. 1733 discuss the important sensitivities on international offset availability that have been run by EPA and others.

4. Administrator, on October 13th, I wrote to request the results of your continuing Section 321(a) evaluation of potential loss or shifts of employment which may result from the suite of regulations EPA has proposed or finalized that address greenhouse gases under provisions of the Clean Air Act, including threatened plant closures or reductions in employment that may result from the administration or enforcement of such regulations.

As you know, Section 321(a) of the Act (42 U.S.C. § 7621(a)) states:

**Continuous evaluation of potential loss or shifts of employment.** The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the administration or enforcement of the provision of this chapter and applicable implementation plans, including, where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such administration or enforcement.

I was wondering if you might tell me the status of your analysis per my request?

### **Administrator Jackson Response:**

On October 26, 2009, EPA transmitted to your office the agency's response to your letter of October 13.

### **Senator John Barrasso**

1. CBO Director Dr. Elmendorf stated that if we enacted this energy tax the fossil fuel sector would mirror the massive job losses experienced by the manufacturing industry since the 1970s.
  - a. What part of the Boxer-Kerry bill do you believe avoids turning fossil fuel dependent communities of the West, Midwest and South from becoming the rust belt of the 21st Century?



**Administrator Jackson Response:**

I do not believe that CBO Director Elmendorf's testimony included the statement that you attribute to him. I do read Director Elmendorf's testimony to make two points. First, over time, legislation like S. 1733 would shift a significant amount of US jobs from high-emitting industries – such as oil refineries and conventional coal-fired power plants – to low-emitting industries – such as cellulosic biorefineries and advanced coal plants with carbon capture and sequestration. This Administration does want to make clean energy the profitable kind of energy in this country. We want to promote US industry and jobs over the long term by putting those industries at the forefront of the burgeoning global marketplace in clean-energy technologies.

Director Elmendorf's second point was that if the shift occurs too abruptly, then high-emitting industries and their employees might not have enough time to adjust. That is the point behind an emissions cap that starts now, at a modest level, and then declines smoothly and gradually over time. If we waited much longer to start, then the transition would be abrupt. We need to start now, so that the transition need not be abrupt. Preventing an abrupt transition could also be a rationale for some of the transitional free allowances – such as for energy-intensive industries, coal-fired utilities, and the like – that you see in S. 1733.

I believe that S. 1733 and H.R. 2454 have been crafted to avoid the negative outcome that you describe.

2. Do you believe it makes sense for Washington to pass a cap and trade bill to make everything American's buy more expensive, and increase energy costs for low and middle income folks, and then devise a government bureaucratic "food stamp" like system to monthly compensate these households for the higher costs that were imposed upon them?

**Administrator Jackson Response:**

Analyses of S. 1733 indicate that costs are modest. However, it's important not to lose sight of the fact that the bill would create, for the first time, a system of incentives to make clean energy the profitable kind of energy. Furthermore, what the analysis does not provide is the economic losses that may be avoided by reducing the risk that we will experience the most catastrophic impacts of climate change.

**Senator Lamar Alexander**

1. I have looked through the EPA produced document entitled "Economic Impacts of S. 1733: The Clean Energy Jobs and American Power Act of 2009" that was released to the public last Friday evening.
  - a. Can you tell me the number of jobs created or lost by this bill? Does this include information on which sectors or industries will gain or lose jobs due to this bill?

**Administrator Jackson Response:**

EPA's economic computer models are not designed to project precise numbers of jobs gained or lost, either in the aggregate or in particular industries. Data and model limitations make it very difficult to estimate any labor market changes that might occur with any degree of accuracy. This is especially true considering that labor markets are primarily influenced by factors including routine business cycles, changes in production technology, and the state of the economy overall. No modeled job-related outputs appear in any of the computer-modeling reports that EPA provided on the Lieberman-Warner bill, the Bingaman-Specter bill, or the Waxman-Markey bill. Therefore EPA's October 23 analysis does not describe any such outputs.

b. What is the effect of the bill on the nation's GDP?

**Administrator Jackson Response:**

GDP would continue to grow if S. 1733 were enacted. EPA's computer models actually overestimate the negative impact on US GDP growth of a policy such as S. 1733, because the models are not designed to project and reflect the beneficial impacts on GDP growth of avoiding catastrophic climate change. Even with that being the case, the models project that the rate at which US GDP would grow under a policy like S. 1733 would be imperceptibly slower than in the absence of the policy. Indeed, the difference in the projected growth rate is so small as to fall well within the historical margin of error in GDP growth projections.

c. What is the effect on the price of gasoline and diesel fuel?

**Administrator Jackson Response:**

EPA's computer models project that each dollar in the price of an emission allowance would cause the price of a gallon of gasoline or diesel to be approximately one cent higher than in the absence of the program, all else being equal.

2. The document states that the impacts of this bill would be "similar" to those estimated for the House-passed Waxman-Markey climate change bill. What exactly does that mean with reference to the costs to the average American family?

**Administrator Jackson Response:**

It means that the cost to consumption of the average American household would start out at just a few cents a day and would be up to only about 30 cents a day by 2020.

3. What does this document say about the mix of electricity sources we are likely to have in 2020, 2030, and 2050? How many new nuclear plants will be built? How many new

**Administrator Jackson Response:**

The analysis that EPA completed on October 23 indicates that the projections that EPA made for H.R. 2454 are applicable to S. 1733 as well. In short, the projections are that for each of the following electricity sources – nuclear power, wind power, solar power, and coal with carbon capture and sequestration – the percentage of total U.S. electricity generated by that source by 2020, by 2030, and by 2050 would be higher in the presence of a policy like H.R. 2454 and S. 1733 than in the absence of one. The percentage also gets larger with time (i.e., the percentage is larger in 2030 than in 2020 and much larger in 2050 than in 2030). The opposite is the case with respect to natural gas by the last two decades of the program.

4. If the EPA’s best efforts to quantify the effect of this proposed legislation as the title of this document clearly implies... “Economic Impacts of S. 1733: The Clean Energy Jobs and American Power Act of 2009” can’t actually answer any of these questions then what other analysis is required to find these answers? Is further analysis from the EPA required? What other experts, such as the CBO, would you recommend we consult?

**Administrator Jackson Response:**

As noted in the responses above, the analysis that EPA completed on October 23 does provide answers to questions you have posed. EPA developed the S.1733 analysis based on synthesizing the results of nearly 50 modeling scenarios of five bills over the past two years. As we noted in the October 23<sup>rd</sup> paper, because of the many similarities between H.R. 2454 and S. 1733 and the relatively small differences between the two bills, we expect that S. 1733 would have economic impacts very similar to H.R. 2454.

David  
McIntosh/DC/USEPA/US  
09/20/2009 03:00 PM

To Nancy Ketcham-Colwill  
cc Elliott Zenick, Eric Ginsburg, Gina McCarthy, Howard Hoffman, James Havard, Jim Ketcham-Colwill, John Hannon, Michael Ling, Patricia Embrey, Peter Tsirigotis, Rebecca White, Reid Harvey, Rob Brenner, Sarah Dunham  
bcc  
Subject Re: implications of 2d version of Murkowski

Thanks All. Very helpful.

(b) (5)

Nancy Ketcham-Colwill [Here's our assessment of the i...](#) 09/19/2009 05:38:52 PM

From: Nancy Ketcham-Colwill/DC/USEPA/US  
To: David McIntosh/DC/USEPA/US@EPA  
Cc: Gina McCarthy/DC/USEPA/US@EPA, Eric Ginsburg/RTP/USEPA/US@EPA, Peter Tsirigotis/RTP/USEPA/US@EPA, Reid Harvey/DC/USEPA/US@EPA, John Hannon/DC/USEPA/US@EPA, Howard Hoffman/DC/USEPA/US@EPA, Elliott Zenick/DC/USEPA/US@EPA, James Havard/DC/USEPA/US@EPA, Patricia Embrey/DC/USEPA/US@EPA, Rob Brenner/DC/USEPA/US@EPA, Jim Ketcham-Colwill/DC/USEPA/US@EPA, Rebecca White/DC/USEPA/US@EPA, Sarah Dunham/DC/USEPA/US@EPA, Michael Ling/RTP/USEPA/US@EPA  
Date: 09/19/2009 05:38 PM  
Subject: implications of 2d version of Murkowski

Here's our assessment of the implications of the latest version of the Murkowski amendment. The key experts have weighed in. I also revised the bullets so they make clear in every case how the amendment is problematic. Many thanks to Eric, Peter, Reid, John, Howard, Elliott, and Jim H. for taking time to provide information and improvements on a beautiful day! Let me know if you'd like me to send it to the folks on last night's email.



Murkowski.rev'd.9-19.2.doc

## Implications of latest draft of Murkowski rider (END09E29<sup>1</sup>)

(b) (5)



(b) (5)



Howard  
Hoffman/DC/USEPA/US  
09/30/2009 01:40 PM

To Kristi Smith  
cc  
bcc  
Subject Fw: Briefing for staff of House Energy and Commerce on the  
Tailoring Rule and the Johnson memo

Howard J. Hoffman EPA-OGC-ARLO  
(202) 564-5582 (v); -5603 (fax); (b) (6) (cell)  
The contents of this e-mail and any attachments to it  
may be attorney-client or deliberative-process privileged.  
----- Forwarded by Howard Hoffman/DC/USEPA/US on 09/30/2009 01:40 PM -----

### Briefing for staff of House Energy and Commerce on the Tailoring Rule and the Johnson memo

Wed 09/30/2009 4:30 PM - 5:30  
PM

Attendance is for Howard Hoffman

Chair: Diann Frantz/DC/USEPA/US

Location: (b) (6) conference code (b) (6)

Required:

Alexandra.Teitz@mail.house.gov, Alex.Barron@mail.house.gov,  
Benjamin.Hengst@mail.house.gov, Greg.Dotson@mail.house.gov, Howard  
Hoffman/DC/USEPA/US@EPA, Joel.Beauvais@mail.house.gov, loriejschmidt@ (b) (6)  
Melissa.Bez@mail.house.gov, Michael.Ling/RTP/USEPA/US@EPA,  
Michael.Goo@mail.house.gov, michal.freedhoff@mail.house.gov

Optional:

Cheryl.Mackay/DC/USEPA/US@EPA, David.McIntosh/DC/USEPA/US@EPA, Jenny  
Noonan/RTP/USEPA/US@EPA, Josh.Lewis/DC/USEPA/US@EPA, Lora  
Strine/DC/USEPA/US@EPA, Patricia.Haman/DC/USEPA/US@EPA

Description

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**Personal Notes**

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Lisa  
Heinzerling/DC/USEPA/US  
09/02/2009 08:33 AM

To: Seth Oster  
cc: "Allyn Brooks-LaSure", David McIntosh, "Gina McCarthy",  
"Bob Sussman", "Diane Thompson", windsor.richard  
bcc  
Subject: Re: Fw: Greenwire on PSD at OMB: EPA Draft Greenhouse  
Gas Rule Focuses on Large Emitters

Nicely done.

Seth Oster      See below. It's a good story. We knew...      09/02/2009 08:04:06 AM

---

From: Seth Oster/DC/USEPA/US  
To: windsor.richard@epa.gov  
Cc: "Diane Thompson" <Thompson.Diane@epamail.epa.gov>, David McIntosh/DC/USEPA/US, "Lisa Heinzerling" <Heinzerling.Lisa@epamail.epa.gov>, "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>, "Bob Sussman" <Sussman.Bob@epamail.epa.gov>, "Gina McCarthy" <McCarthy.Gina@epamail.epa.gov>  
Date: 09/02/2009 08:04 AM  
Subject: Fw: Greenwire on PSD at OMB: EPA Draft Greenhouse Gas Rule Focuses on Large Emitters

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See below. It's a good story. We knew it was coming and chose to let it go without comment -- a good decision.

John Millett

----- Original Message -----

**From:** John Millett  
**Sent:** 09/02/2009 06:35 AM EDT  
**To:** Gina McCarthy; Don Zinger; oster.seth@epa.gov  
**Cc:** David Cohen; Andrea Drinkard; "Alison Davis" <davis.alison@epa.gov>  
**Subject:** Greenwire on PSD at OMB: EPA Draft Greenhouse Gas Rule Focuses on Large Emitters  
EPA Draft Greenhouse Gas Rule Focuses on Large Emitters

Proposed rule would shield small sources of the greenhouse gases contributing to climate change By Robin Bravender

The EPA has drafted new rules aimed at large emitters of greenhouse gases, and sparing small sources.

U.S. EPA has sent a draft rule to the White House that could limit regulations on greenhouse gas emissions to cover only very large industrial sources. The agency yesterday submitted a rule to the White House Office of Management and Budget that experts say will likely limit strict permitting requirements to industrial sources of more than 25,000 tons a year of carbon dioxide equivalent. The rule is aimed at shielding smaller sources of emissions from being subject to any new regulatory regime. The Clean Air Act now requires new and modified industrial sources to install "best available control technologies" when they emit 250 tons or more of a pollutant per year. Although the submission to OMB does not include details of the proposed rule, experts say the threshold is likely to be set at 25,000 tons because that's the stated limit in both EPA's proposed greenhouse gas reporting rule and the climate legislation passed by the House in June. The draft "Prevention of Significant Deterioration/Title V Greenhouse Gas Tailoring Rule" is seen as a critical regulation that would work in conjunction with several other climate-change rules expected from EPA. EPA and the Transportation Department last week sent draft rules to the White House for review that would boost automobile and light truck efficiency standards for model years 2012 to 2016, and impose first-ever federal tailpipe standards for greenhouse gases. Those rules hinge on the finalization of EPA's proposed "endangerment finding," which would establish greenhouse gases as pollutants under the Clean Air Act. Once it begins to regulate greenhouse gases from cars and trucks, EPA will be legally required to regulate all new or modified facilities that emit more than 250 tons per year

of carbon dioxide. By moving that threshold to 25,000 tons per year, the permitting rule would cover roughly 13,000 facilities from all sectors of the economy that account for 85 to 90 percent of U.S. emissions, the agency said. "What they're trying to do is protect the innocent bystanders from being impacted by the finalization of the car rule," said Roger Martella, who was EPA general counsel under President George W. Bush. David Bookbinder, chief climate counsel at the Sierra Club, said the rule would also deflect claims from Republican lawmakers and industry groups that the Obama administration is seeking to regulate small emission sources such as doughnut shops, schools and nursing homes. "Putting this rule in place deflates a lot of the political rhetoric about regulating CO2," he said. The Obama EPA is moving forward on greenhouse gas regulations despite the administration's stated preference for legislation over agency regulations. Sens. Barbara Boxer (D-Calif.) and John Kerry (D-Mass.) -- the lead authors of the Senate climate bill -- announced yesterday that they would delay plans to introduce climate legislation until later this month. Bookbinder predicted EPA's proposed endangerment finding will be finalized soon, followed by the threshold rule and finally the tailpipe standards, which are expected to be finalized by March 2010. "You can't go final with the car rule until you have a final endangerment finding and you don't want to go final with the car rule until you have [the threshold rule] in place," he said. Bookbinder said environmentalists are comfortable with the 25,000 ton threshold, but Martella and others have expressed concerns that EPA may face questions about its legal authority to raise the threshold from the 250 tons stipulated in the Clean Air Act.

John Millett

EPA Office of Air and Radiation Communications

Desk: 202/564-2903

Cell: (b) (6)

**Michael Ling/RTP/USEPA/US**

08/11/2009 11:15 AM

To Lisa Heinzerling, Bob Sussman, David McIntosh, Arvin Ganesan

cc Jeffrey Clark

bcc

Subject GHG Phase-in rule for Permitting

Good morning. I'm sending this note at Gina's request to let you know that she has cleared this package and thinks it is in good shape to go to OMB. (Lisa, I know you know this already because OPEI received it when it cleared OAR). Our goal is to get it to OMB within the next couple of days. Gina wanted to make sure you received the package and knew the status. I'll attach the preamble and rule and a couple of summary pieces. Thanks.

(FYI, this is the version that cleared OAR, but there will be some minor changes in the OMB version, mainly related to the deletion of 2 footnotes on the impacts on large sources -- which are not directly related to the phase-in rule -- and some clean up of the regulatory language, and possibly a couple of others.)



GHG Phase-In Proposal draft 8-7-09.doc



Action Memo - GHG-T\_8-7-09.doc



Fact Sheet\_GHG-T\_8-6-09.doc



Comm Plan\_GHG-T\_8-6-09.doc

Michael Ling  
Associate Director  
Air Quality Policy Division  
U.S. EPA - OAQPS  
(919) 541-4729

GHG Phase-In Proposal draft 8-7-09.doc  
withheld in full under FOIA exemption 5

Action Memo - GHG-T\_8-7-09.doc withheld in  
full under FOIA exemption 5

Fact Sheet\_GHG-T\_8-6-09.doc withheld in full  
under FOIA exemption 5

Comm Plan\_GHG-T\_8-6-09.doc withheld in full  
under FOIA exemption 5